FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MONTCLAIR PARKOWNERS ASSOCIATION; HACIENDA MOBILE HOME ESTATES,
Plaintiffs-Appellants,

v.

CITY OF MONTCLAIR, a Municipal corporation,
Defendant-Appellee.

No. 99-55083

D.C. No.
CV-98-06723-R

OPINION

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Argued and Submitted
September 29, 1999--Pasadena, California

Filed September 5, 2001

Before: Diarmuid F. O'Scannlain, Ferdinand Fernandez, and Thomas G. Nelson, Circuit Judges.

Opinion by Judge O'Scannlain

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COUNSEL

John A. Ramirez (argued) and R.S. Radford, Pacific Legal Foundation, Sacramento, California, and Robert S. Coldren and C. William Dahlin, Hart, King & Coldren, Santa Ana, California, for the plaintiffs-appellants.

Henry E. Heater (argued), Donald R. Lincoln, and Linda B. Reich, Endeman, Lincoln, Turek & Heater, San Diego, California, and Diane E. Robbins and Richard Holdaway, Robbins & Holdaway, Chino, California, for the defendant-appellee.

OPINION

O'SCANNLAIN, Circuit Judge:

We must decide whether the Younger abstention doctrine requires the dismissal of a federal lawsuit brought to vindicate rights under the Takings Clause of the federal Constitution.

I

In July 1998, the City of Montclair, California, ("Montclair") adopted Ordinance number 98-777, a rent-control provision regulating trailer parks. The ordinance prohibits a trailer park owner from increasing the rent for trailer spaces in his park upon their sale or transfer by more than the greater of three percent or the latest annual percentage increase in the consumer price index (up to eight percent). Park owners may apply, however, for administrative permits under the ordinance to increase prices for the purpose of recovering certain increased costs.

On August 17, 1998, the Montclair Parkowners Association and Hacienda Mobile Home Estates (collectively,"the Association") brought suit in federal district court pursuant to 42 U.S.C. § 1983. The Association alleged that the ordinance effected an unconstitutional taking under the Fifth and Fourteenth Amendments to the United States Constitution and sought declaratory and injunctive relief and just compensation for the property taken. On the next day, August 18, 1998, (before any action was taken on the Association's federal suit) the Association filed a complaint in California Superior Court, making the same claims that were raised in the federal action, but under state law: that the ordinance violated due process of law and amounted to a taking without compensation in violation of Article I of the California Constitution. Appellants made it clear in their state court complaint that they reserved the federal bases for their challenge for disposition in federal court pursuant to England v. Louisiana State Bd. of Med. Examiners, 375 U.S. 411, 420-42 (1964).**1**

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1 The Association expressly reserved its federal takings claim for federal court in its initial state court pleadings under England v. Louisiana State Board of Medical Examiners, 375 U.S. 411 (1964). See Montclair Parkowners Association v. City of Montclair, 76 Cal. App. 4th 784, 789 n.1 (1999) (acknowledging that Association reserved its federal takings claim for federal court under England, and hence that state takings claim was only claim before court). As a result, its federal action is not barred by the doctrine of res judicata. See United Parcel Serv., Inc. v. California Public Util. Comm'n, 77 F.3d 1178, 1185-87 (1996); Dodd v. Hood River County, 59 F.3d 852, 861-62 (9th Cir. 1995).

The federal district court thereafter dismissed the Association's federal suit, holding that abstention and dismissal were required under the Supreme Court's decisions in the case of Younger v. Harris, 401 U.S. 37 (1971), and its progeny. This timely appeal followed.

II

Younger and its progeny stand for the proposition that federal courts may not, in certain circumstances, exercise their jurisdiction where doing so would interfere with state judicial proceedings. See Middlesex County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 431 (1982).

We recently clarified the nature of the interference necessary to invoke Younger abstention in Green v. City of Tuscon, No. 99-15625, 2001 WL 760750 (9th Cir. July 9, 2001) (en banc). The district court in Green dismissed a federal action challenging a state law on federal constitutional grounds because there was an action pending in state court challenging the same law on the same federal grounds. We reversed, observing that the "threshold condition " for abstention under Younger is present only "when the relief sought in federal court would in some manner directly `interfere' with ongoing state judicial proceedings -- and that, further, such interference is not present merely because a plaintiff chooses to instigate parallel affirmative litigation in both state and federal court." Id. at *10 (citing New Orleans Pub. Serv. Inc. v. Council of the City of New Orleans, 491 U.S. 350 (1989)). While recognizing that the federal court decision in such situations "may, through claim or issue preclusion, influence the result in state court," we held that this was not the sort of interference sufficient to trigger Younger abstention. Id. at *6.

Here, the Association merely filed parallel affirmative litigation in both federal and state court. The Association did not request the federal court to enjoin on-going state court proceedings, nor did it seek any other relief that would inter-

fere with its state court action within the meaning of Younger and its progeny. As in Green, the mere pendency of a parallel state court proceeding challenging the City's rent control ordinance is insufficient to trigger Younger abstention.**2** Thus, dismissal of the Association's federal action under the Younger abstention doctrine was improper.

REVERSED and REMANDED.

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2 The Association's federal action, in which only federal issues are raised, could have had even less influence on the Association's state proceeding than was the case in Green, given that the Association raised only state issues in its state court complaint.